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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,714	01/27/2004	Benjamin A. Street	26.2.C99/USA	2571
7590 09/20/2005			EXAMINER	
James W. Miller Suite 1005 Foshay Tower 821 Marquette Avenue Minneapolis, MN 55402			KOVACS, ARPAD F	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/765,714

Applicant(s)

STREET ET AL.

Examiner

Árpád Fábián Kovács

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,11-20,27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-9,11-20,27 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hightower (4747174), in view of Shannon et al (DES 395900).

Hightower discloses a towing vehicle (1):

Claim 1:

A brush rake or grooming attachment which is capable of smoothing loose, granular material, for example for achieving smooth surface (col. 1, ln 15), comprises:

A center brush having a hitch and pair of side brushes pivotally connected (col. 2, ln 23-24; fig 1, about hinge 13);

Brushes having flexible bristles (col. 2, ln 34-35) that are the only portion of the brush rake that engage the loose granular material (fig 1);

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As shown in fig 2, the outer ends of the innermost ends of the side brushes & center brush groom an unbroken swath in a surface;

claims 4-8:

the center brush engage the loose granular material with more down force than the brush bristles of the side brushes, due to the weight (i.e. heavier) of the drawbar/support beam ref 7, while the side edges are pivotable relative to the center / drawbar, as shown in fig 2, the support beam / drawbar rigidly fixing the center brush by at least one attachment member (fig 1, 2) & in comparing the size of the support beam in fig 2 is shorter than the center brush;

claim 3:

as shown in fig 2, each side brush is pivotally connected about a horizontal plane.

Hightower does not disclose a different arrangement of the side brushes as now claimed: "not aligned end to end" & "do not engage the bristles" etc...

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Shannon discloses that it is known in the art to arrange the brushes as claimed (see fig 8).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to arrange Hightower's brushes in the manner Shannon's brushes are arranged, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

3. Claims 9, 11-20, 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hightower (4747174), in view of Shields II (6439444).

Hightower discloses the claimed device except for disclosing the vehicle of being a ZRT vehicle, the type of vehicle (ZRT) in recent years commonly used.

Shields discloses that it is known in the art to provide a ZRT vehicle as claimed in order to ensure maximum flexibility in the application of the ZRT vehicle. Although, there are plentiful ZRT vehicles known in the art, Examiner found that Shields provides additional feature of utilizing or applying the vehicle for other applications.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to pick and choose the type of vehicle utilized for grass/granular particle grooming of Hightower with the teachings of using or having a vehicle substantially zero radius turn capability of Shields, since in recent years it was known that ZRT vehicles are commonly used in lawn care, provide for lower cost and greater flexibility (for example in maneuvering) (Shields, col. 1, 11-24).

As applied to claim(s) 27-28, in view of the structure disclosed/taught by Hightower as modified by Shields, the method of operating/using the device would have been obvious since it is the normal and logical manner in which the device is used.

Response to Arguments

4. Applicant's arguments with respect to claims 1, 3-8 have been considered but are moot in view of the new ground(s) of rejection.

5. Applicant's arguments filed 9/9/2005 have been fully considered but they are not persuasive.

In response to applicant's argument that "a zero radius turn vehicle executing a skid turn on a clay tennis court ... would tear up the tennis court," the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

In response to applicant's argument that "there is no suggestion in any prior art reference that the zero radius turn vehicle be operated to turn sufficiently sharply to eliminate the ungroomed teardrop as forth in claims 9 & 27," the Examiner disagrees, since variety of ZRT vehicles are known, one example being Shields' vehicle, thus that when employed with a rake system (rakes side by side as demonstrated by Hightower, or arranged in staggered manner as shown by Shannon) would turn sharply (i.e. ZRT vehicle is used), thus due to the same

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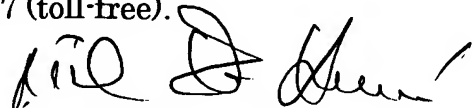
arrangement as Applicant's disclosed invention, the combination would exactly the same manner groom the ground surface.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 571 272 6990. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272 6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Árpád Fábián Kovács
Primary Examiner
Art Unit 3671

ÁFK